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SOUTH PACIFIC NUCLEAR-FREE-ZONE TREATY

Background paper prepared by the South Pacific Forum secretariat

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I. INTRODUCTION

1. At its second session (17-21 January 1994), the Preparatory Committee for the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons invited the South Pacific Forum secretariat to prepare for the Committee's third session (12-16 September 1994) a background paper dealing with the South Pacific Nuclear-Free-Zone Treaty (Treaty of Rarotonga). At its third session, the Committee requested the secretariat to amend the paper in the light of comments made in the course of the session, to update it by taking into account current events, and to submit it to the Conference. The present paper is submitted in response to that request.

II. BACKGROUND

2. At its meeting at Rarotonga, Cook Islands, in August 1985 the South Pacific Forum agreed to adopt and open for signature the South Pacific Nuclear-Free-Zone Treaty.

3. The Treaty is based on the following broad principles for South Pacific countries:

(a) To be free to live in peace and independence and to run their own affairs in accordance with the wishes and traditions of their people;

(b) To enjoy peaceful social and economic development free from the threat of environmental pollution;

(c) To acknowledge existing international treaties, organizations and regional arrangements such as the Charter of the United Nations, the Treaty on the Non-Proliferation of Nuclear Weapons and the United Nations Convention on the Law of the Sea which contribute to these principles;

(d) To act in accordance with applicable international principles and treaties, notably the Treaty on the Non-Proliferation of Nuclear Weapons with respect to nuclear activities;

(e) To take account of other regional arrangements;

(f) To retain their unqualified sovereign rights to decide for themselves, consistent with their support for these principles, their security arrangements.

4. The South Pacific Forum considers the Treaty as the region's contribution to strengthening global security and the international non-proliferation regime, of which the non-proliferation of nuclear weapons is the cornerstone. Special attention is given to article VII of the Treaty on the Non-Proliferation of Nuclear Weapons which recognizes the right of any group of States to conclude regional treaties so as to assure the total absence of nuclear weapons in their respective territories.

5. The South Pacific Forum States are deeply committed to world peace and security. The Treaty is an expression of their grave concern that the continuing nuclear arms race would lead to an all-out nuclear war with devastating consequences. The Treaty further stresses the deep commitment of the South Pacific Forum States to the reduction and eventual elimination of nuclear weapons and to keeping the Pacific region free of environmental pollution.

6. The Treaty entered into force on 11 December 1986 with the deposit of the eighth instrument of ratification. Eleven countries have signed the Treaty, namely, Australia, the Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Samoa, Solomon Islands and Tuvalu. All of the signatories to the Treaty have also ratified the Treaty. The most recent ratification was that of Papua New Guinea in September 1989.

7. Four South Pacific Forum States have not signed the Treaty. They are: the Marshall Islands, the Federated States of Micronesia, Tonga and Vanuatu. As the Treaty is open to South Pacific Forum States only, the Marshall Islands and the Federated States of Micronesia became eligible to sign the Treaty only upon joining the Forum at its eighteenth meeting in May 1987.

8. At its most recent meeting, at Brisbane in July-August 1994, the Forum welcomed the continuing growth in the membership of the Treaty on the Non-Proliferation of Nuclear Weapons and expressed the desire of its members to see the Treaty indefinitely extended at the 1995 Review and Extension Conference.

III. THE TREATY

9. The South Pacific nuclear-free-zone is only the second such zone to be established in a populated region of the world - the first being the Latin American zone created by the Treaty of Tlatelolco. The South Pacific zone stretches in the west from the west coast of Australia to the boundary of the Latin American zone in the east. It extends from the equator to 60° south, where the Antarctic Treaty already establishes a completely demilitarized zone covering the whole continent.

10. The Treaty contains a preamble, 16 articles and 4 annexes. Under its terms the parties pledge to each other:

(a) Not to possess, manufacture, or acquire nuclear explosive devices anywhere; the term nuclear explosive device is used rather than nuclear weapon to emphasize that the parties do not draw a distinction between devices which have military purposes and those for which a peaceful purpose is claimed;

(b) To prevent the testing of nuclear explosive devices and to prevent the stationing of nuclear explosive devices in their territory;

(c) To take measures, including the application of full scope International Atomic Energy Agency safeguards to all peaceful nuclear activities

in their territories, to prevent the diversion of fissionable material to non-peaceful purposes;

(d) Not to dump radioactive waste and other radioactive matter at sea in the zone or take action to assist or encourage dumping; and to prevent the dumping of such wastes or matter by anyone.

11. The Treaty does not interfere with the right of each party to decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields. It also explicitly upholds the freedom of navigation on the high seas and territorial waters guaranteed by international law.

12. A comprehensive control system has been established to verify compliance with the Treaty, and there are mechanisms, including provision for mandatory on-site inspection, to investigate any complaints that may be made about such compliance. There are also provisions for review, amendment and withdrawal, and for the boundaries of the zone to be extended as further countries join the Forum and become parties to the Treaty.

13. To underline the nature of the security commitment - one of the first to be undertaken on a regional basis - the right of withdrawal is not unilateral and can be affected only on 12 months' notice and solely "in the event of a violation by any party of the provisions of this Treaty essential to the achievement of the objectives of the Treaty or of the spirit of the Treaty".

IV. THE PROTOCOLS

14. In addition to the Treaty itself there are three protocols. The Forum deferred adopting them until after consultations with those countries eligible to sign them. Those consultations took place in early 1986, when a delegation of officials from Forum countries visited the capital of all five nuclear-weapon States to explain the protocols and their purpose. The Seventeenth South Pacific Forum, at Suva in August 1986, adopted the protocols with slight amendments, including the insertion of withdrawal clauses. The protocols were then opened for signature on 1 December 1986.

15. Under protocol 1, the three States with territory in the zone (France, the United Kingdom of Great Britain and Northern Ireland and the United States of America) are invited to apply the basic provisions of the Treaty to their respective territories. Under protocols 2 and 3, nuclear-weapon States would agree not to use or threaten to use nuclear explosive devices against any party (or territory in the zone of a party to protocol 1), and undertake not to test nuclear explosive devices in the zone. China and the Russian Federation have signed and ratified both protocols 2 and 3. The United States declared in 1987 that, in view of its global security interests and responsibilities, it was not "under current circumstances" in a position to sign the protocols. It did, however, declare that none of its practices and activities within the Treaty area were inconsistent with the Treaty or its protocols. In 1992, the United States imposed a moratorium against nuclear testing which has recently been further extended until 1996. One month after the United States declaration, the United Kingdom announced that the British national interest would not be served

by its becoming a party to the protocols, but added that it would respect the intentions of regional States on protocols 1 and 3. In other words it would not manufacture, test or base nuclear weapons in its one remaining territory in the region (Pitcairn Island) nor would it test nuclear weapons in the South Pacific. The United Kingdom has subsequently informally reiterated its position. France, although not a party to the protocol, suspended nuclear testing in April 1992.